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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/690,095

10/21/2003

Norman W. Gavin

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10/11/2007

WIGGIN AND DANA LLP

ATTENTION: PATENT DOCKETING

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

10/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/690,095

Applicant(s)

GAVIN, NORMAN W.

Examiner

/Stephen J. Castellano/

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10, 12, 15, 17, 18, 20-25 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10, 12, 15, 17, 18, 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 22-25, 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 1-6, 11, 13, 14, 16, 19, 26 and 31-35 have been canceled. Claims 7-10, 12, 15, 17, 18, 20-25 and 27-30 are pending.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-25, 27, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Quaney.

Quaney discloses a utility box for use underground and capable of defining an underground component for a septic system, the box comprises a perimeter sidewall (4, 6) terminating in an end portion (internal shoulder 8) having an inner edge, a rim extending from the exterior surface of the sidewall, the rim having an outer edge (uppermost, outermost edge) displaced radially outward and axially upward from inner edge of the end portion and defining the axial extent of the component and a plurality of generally vertical members (bosses 12) spaced about the interior surface of the sidewall attached to the interior surface up to the inside edge. The vertical members are bosses.

Re the flush limitation of claim 22, the inner end of all of the vertical members are flush with the edge of the interior surface. Re the flush limitation of claim 23, the inner end of all of the vertical members are flush with the edge of the end portion.

Re claim 27, the boss 12 is generally an inside wall portion of an inwardly protruding portion of square shape in plan or in horizontal cross section and receives the fastener 30 and the boss is connected to the sidewall by an offsetting portion (one of the radially inwardly directed

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wall portions of the square shaped inwardly protruding portion), the offsetting portion is a portion of the boss attached to the interior surface up to the edge (an upper edge of the interior surface at the boss)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quaney in view of Russell.

Quaney discloses the invention except for the cylindrical shape of the box. Russell teaches an underground box of cylindrical shape (see Fig. 3). It would have been obvious to change the shape to provide a shaped box more compatible with the instrumentation enclosed therein and of a more compact shape in order to be compatible with the components carried therein and to occupy less underground space allowing space for other utilities.

Claims 7-10, 12, 15, 17, 18, 20 and 21 are allowed.

Applicant's arguments filed August 14, 2007 have been fully considered but they are not persuasive. Applicant states that the bosses on the longitudinal sides are not flush with the interior surface. The bosses 12 are located on the short sides. The limitation in claim 22 states that the members "are flush with said edge of said interior surface." The edge of the interior surface is a vertically extending surface and the inner end of the boss 12 is aligned and flush with this vertically extending surface.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on M-Th 6:30-5.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Stephen J. Castellano/
Primary Examiner
Art Unit 3727

sjc